

R. BLAKE HAMILTON (Bar No. 11395)  
ASHLEY M. GREGSON (Bar No. 13716)  
**DURHAM JONES & PINEGAR, P.C.**  
111 E. Broadway, Suite 900  
PO Box 4050  
Salt Lake City, UT 84110-4050  
Telephone: (801) 415-3000  
Facsimile: (801) 415-3500  
Email: [bhamilton@djplaw.com](mailto:bhamilton@djplaw.com)  
[agregson@djplaw.com](mailto:agregson@djplaw.com)

ATTORNEYS FOR DEFENDANTS

---

**IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION**

---

JOSHUA CHATWIN,  
v.  
Plaintiff,

DRAPER CITY; OFFICER J. PATTERSON,  
in his individual and official capacity;  
OFFICER DAVID HARRIS, in his individual  
and official capacity; OFFICER HEATHER  
BAUGH, in her individual and official  
capacity; and JOHN DOES 1-10,

Defendants.

**DEFENDANTS' PRETRIAL  
DISCLOSURES and OBJECTIONS TO  
PLAINTIFF'S PRETRIAL  
DISCLOSURES**

Civil No. 2:14-cv-00375  
Judge Dale A. Kimball

Pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure, Defendants Draper City, Officer Patterson, Officer Harris, and Officer Baugh (collectively, "Defendants") hereby submit their Pretrial Disclosures and their Objections to Plaintiff's Pretrial Disclosures. Based upon information currently available, Defendants disclose the following:

**WITNESSES**

Defendants expect to call the following witnesses:

1. Joshua Patterson
2. Sgt. David Harris
3. Heather Baugh
4. Deputy Chief John Eining
5. Ken Wallentine
6. Christopher Lawrence
7. Alan Goldman, M.D.

Defendants may call the following witnesses:

1. John E. Butler, M.D.
2. Janessa Huff
3. Juanita A. Gonzales
4. Steve Merrin
5. Sgt. Kurt Imig
6. Officer Todd Crane
7. Officer J. Barnes
8. Officer Clinton Fackrell
9. Officer Chad Carpetner
10. Captain Jason Kamp
11. Heathy Best

12. Mike Washburn
13. Chris Middlemiss
14. Tiffany Berardi
15. Tiffany Wilson, GM, or other Manager at Perry Brothers Honda World
16. Manager at Guadalahonky's & Co.
17. Manager at Fast PC Solutions, LLC
18. Manager at Laser Stop, LLC
19. Manager at Rock Creek Pizza
20. Manager at O'Currance, Inc.
21. Manager at Z'tejas
22. Manager at Educators Mutual Insurance
23. Manager at Lube Management Corp.
24. Manager at Brightstar Wireless, Inc.
25. Manager at Slaymaker Group/Wingers Diner
26. Manager at Convergys Corp.
27. Managr at Larry Miller Subaru
28. Manager at Spirit Wireless
29. Manager at American Satellite Co.
30. Manager at Discount Tire
31. Records/Evidence Custodian, Draper City
32. Records Custodian for any other exhibits

**EXHIBITS**

Defendants expect to use the following exhibits:

1. DUI Report Form, DRAPER-CHT-00064-67
2. Citation, DRAPER-CHT-00068
3. Draper City Police Report, DRAPER-CHT-00069-86
4. Field Training Manual, DRAPER-CHT-0668-688
5. Draper City Police Report, DRAPER-CHT-4060-4094
6. Expert reports of Ken Wallentine
7. Rebuttal reports of Ken Wallentine
8. Expert report of Chris Lawrence
9. Rebuttal report of Alan Goldman

Defendants may use the following exhibits:

1. Transcript from Preliminary Hearing, DRAPER-CHT-00001-63
2. Search Warrant, DRAPER-CHT-00087-88
3. Blood Test Lab Results, DRAPER-CHT-00089
4. 10/29/2009 Assorted Draper City Policies, DRAPER-CHT-00090-155
5. 2011 Monthly Training Calendar, DRAPER-CHT-0156-159
6. 2011 Defensive Tactic Dept. Training Outline, DRAPER-CHT-0160-165
7. April 2011 Defensive Tactic Dept. Training, DRAPER-CHT-0166-167
8. Draper Police 2012 Yearly Training, DRAPER-CHT-0168-170
9. June 2012 Firearms Agenda, DRAPER-CHT-0171

10. November 2012 Defensive Tactics Dept. Training, DRAPER-CHT-0175-179
11. Draper City Use of Force Policy, DRAPER-CHT-0180-192
12. November 2012 Defensive Tactics Dept. Training Outline, DRAPER-CHT-0193-197
13. November 2012 Defensive Tactics Dept. Training Outline, DRAPER-CHT-198-202
14. Draper City Police Firearms Spreadsheet, DRAPER-CHT-201-205
15. 2013 Draper City Dept. Yearly Training, DRAPER-CHT-206-208
16. 1/15/2013 Draper City Police Training Roster, DRAPER-CHT-209
17. November 2012 Defensive Tactics Dept. Training, DRAPER-CHT-0213-217
18. 6/18/2013 Draper City Police Firearms, DRAPER-CHT-0218
19. 2/12/2013 Draper City Police Firearms, DRAPER-CHT-0220-223
20. Draper PD Defensive Tactics Training Outline, DRAPER-CHT-0254-260
21. 4/21/2015 Draper PD Training Roster – Legal Update, DRAPER-CHT-0262
22. 2014 Draper PD Yearly Training, DRAPER-CHT-0305-307
23. 2015 Draper PD Yearly Training, DRAPER-CHT-308-309
24. 5/5/2009 Draper PD Defensive Tactics, DRAPER-CHT-0412
25. Confrontation Management: The 10 Commandments of Officer Survival, DRAPER-CHT-0413-414
26. 12/11/2012 Draper City Police Training Roster First Aid/CPR, DRAPER-CHT-0599
27. 12/18/2012 Draper City Police Training Roster First Aid/CPR, DRAPER-CHT-0600
28. Draper PD 2012 Yearly Training Record, DRAPER-CHT-0601-606
29. Draper PD 2014 Yearly Training Record, DRAPER-CHT-0607-609

30. Citizen Complaint Investigation regarding Officer Patterson, DRAPER-CHT-0610-616
31. Citizen Complaint Investigation regarding Officer Patterson, DRAPER-CHT-0617-620
32. January 2014 Training Rosters, DRAPER-CHT-0694-701
33. December 2012 Training Rosters, DRAPER-CHT-0713-714
34. Unified State Lab Bureau of Forensic Toxicology blood test, DRAPER-CHT-4095
35. Charging Information, DRAPER-CHT-4096-4099
36. Arrest Warrant, DRAPER-CHT-4100-4101
37. Witness Statement Heathy Best, DRAPER-CHT-4102
38. Witness Statement Jason Kamp, DRAPER-CHT-4103
39. Forensic Toxicology Statement, DRAPER-CHT-4104
40. Witness Statement Mike Washburn, DRAPER-CHT-4105
41. Witness Statement Chris Middlemiss, DRAPER-CHT-4106
42. Witness Statement Janessa Huff, DRAPER-CHT-4107
43. Witness Statement Mehdi Mahmoudi, DRAPER-CHT-4108
44. Witness Statement Kathy Torrence, DRAPER-CHT-4109
45. Witness Statement Heidi Merrin, DRAPER-CHT-4110
46. Witness Statement Jason Scott, DRAPER-CHT-4111
47. Witness Statement Steve Merrin, DRAPER-CHT-4112
48. DPD Training Assessment for Sworn Staff, DRAPER-CHT-4115-4123
49. DPD Training Assessment Non-Sworn Staff, DRAPER-CHT-4124-4132
50. DPD Training Assessment for Specialty Assignments, DRAPER-CHT-4133-4146

51. 2015 Employee Training Assessment and Career Path Plan, DRAPER-CHT-4147-4154
52. Photograph, DRAPER-CHT-4155
53. Photographs, DRAPER-CHT-4156
54. Photographs, DRAPER-CHT-4157
55. Photographs, DRAPER-CHT-4158
56. Photographs, DRAPER-CHT-4159
57. Photographs, DRAPER-CHT-4160
58. Photographs, DRAPER-CHT-4161
59. Photograph, DRAPER-CHT-4162
60. Photographs, DRAPER-CHT-4163
61. Photographs, DRAPER-CHT-4164
62. Photographs, DRAPER-CHT-4165
63. Interoffice Memo regarding Officer Patterson, DRAPER-CHT-4167-4168
64. Letter of Commendation regarding Officer Patterson, DRAPER-CHT-4169-4171
65. 2013 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4179-4182
66. 2011 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4185-4188
67. 2010 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4190-4193

68. Sept. 2008 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4195
69. 2009 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4196-4199
70. May 2008 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4202-4203
71. June 2008 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4204-4216
72. Dec. 2007 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4218
73. June 2007 Draper City Employee Performance Appraisal, Heather Baugh, DRAPER-CHT-4220
74. Oct. 2007 Draper City Police Dept. Evaluation Report, DRAPER-CHT-4222
75. Oct. 2014 Draper City Employee Performance Appraisal, DRAPER-CHT-4223-4226
76. Oct. 2012 Draper City Employee Performance Appraisal, DRAPER-CHT-4227-4230
77. Dec. 2007 Draper City Employee Performance Appraisal, DRAPER-CHT-4231
78. August 2014 Letter of Commendation, Heather Baugh, DRAPER-CHT-4232
79. March 2013 Letter of Commendation, Heather Baugh, DRAPER-CHT-4233
80. February 2012 Letter of Commendation, Heather Baugh, DRAPER-CHT-4234-4236
81. Acknowledgement of Draper City PD policy manual, DRAPER-CHT-4257

82. 3/8/2013 Supervisor Training Certificate of Completion, David Harris, DRAPER-CHT-4643

83. 12/17/13 Letter of Commendation to Sgt. Harris, DRAPER-CHT-4649

84. 5/8/07 Letter of Commendation Officer Harris, DRAPER-CHT-4642-4652

85. 3/13/07 Letter of Commendation Officer Harris, DRAPER-CHT-4653-4655

86. Draper City PD Policy Manual Acknowledgement Form, Harris, DRAPER-CHT-4676

87. 10/28/14 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4690-4693

88. 11/21/13 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4695-4698

89. 6/14/13 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4701

90. 10/26/2012 Draper City Employee Performance Appraisal/Review, Harris, DRAPER-CHT-4703-4706

91. 10/21/2011 Draper City Employee Performance Appraisal, Harris, DRAPER-CHT-4714-4717

92. 11/1/10 Draper City Employee Performance Appraisal, Harris, DRAPER-CHT-4722-4726

93. 9/1/08 Employee Performance Evaluation, Harris, DRAPER-CHT-4727

94. 2/13/09 Employee Performance Evaluation, Harris, DRAPER-CHT-4728-4731

95. 4/14/08 Employee Performance Evaluation, Harris, DRAPER-CHT-4735-4736

96. 4/19/08 Draper City Employee Evaluation, Harris, DRAPER-CHT-4737-4749
97. 7/19/08 Employee Performance Evaluation, Harris, DRAPER-CHT-4751-4752
98. 5/15/07 Employee Performance Evaluation, DRAPER-CHT-4758
99. Photograph, DRAPER-CHT-4764
100. Photograph, DRAPER-CHT-4765
101. Photograph, DRAPER-CHT-4766
102. Photograph, DRAPER-CHT-4767
103. Photograph, DRAPER-CHT-4767
104. Photograph, DRAPER-CHT-4768
105. Photograph, DRAPER-CHT-4769
106. Photograph, DRAPER-CHT-4770
107. Case Dockets regarding Plaintiff, DRAPER-CHT-4771-5002
108. 4/21/2009 Police Report regarding Josh Chatwin, DRAPER-CHT-5003
109. 7/8/10 Police Report regarding Josh Chatwin, DRAPER-CHT-5004-5006
110. 4/8/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5007-5008
111. 8/20/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5009-5010
112. 9/9/11 Police Reports regarding Kathy Torrence, DRAPER-CHT-5011-5014
113. 9/18/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5015-5016
114. 10/8/11 Police Report regarding Kathy Torrence, DRAPER-CHT-5017-5018
115. 7/3/12 Police Report regarding Josh Chatwin, DRAPER-CHT-5019
116. 1/24/13 Police Report regarding Jason Scott, DRAPER-CHT-5022-5023

117. 2/23/2013 Police Report regarding Josh Chatwin, DRAPER-CHT-5024
118. 3/7/2013 Police Report regarding Kathy Torrence, DRAPER-CHT-5025
119. 7/31/2013 Police Report regarding Josh Chatwin, DRAPER-CHT-5026-5027
120. 1/11/14 Police Report regarding Josh Chatwin, DRAPER-CHT-5028-5029
121. 5/26/15 Police Report regarding Josh Chatwin, DRAPER-CHT-5032-5034
122. 10/3/04 Police Report regarding Josh Chatwin, DRAPER-CHT-5040-5045
123. 4/22/05 Police Report regarding Josh Chatwin, DRAPER-CHT-5048-5049
124. 4/9/06 Police Report Regarding Josh Chatwin, DRAPER-CHT-5054-5055
125. 10/21/06 Police Report Regarding Kathy Torrence, DRAPER-CHT-5056-5058
126. 6/25/07 Police Report regarding Kathy Torrence, DRAPER-CHT-5059-5060
127. 7/16/07 Police Report regarding Josh Chatwin, DRAPER-CHT-5061-5064
128. 4/9/09 Police Report regarding Josh Chatwin, DRAPER-CHT-5065-5067
129. Josh Chatwin Employment Records, Convergys, DRAPER-CHT-5068-5075
130. Josh Chatwin Employment Records, Honda World, DRAPER-CHT-5076-5080
131. Josh Chatwin Employment Records, Discount Tire, DRAPER-CHT-5081-5114
132. Josh Chatwin Employment Records, Guadalahonky's, DRAPER-CHT-5115
133. Josh Chatwin Employment Records, Jiffy Lube, DRAPER-CHT-5116-5126
134. Josh Chatwin Employment Records, Laserstop, DRAPER-CHT-5127-5128
135. Josh Chatwin Employment Records, O'Currance, DRAPER-CHT-5129-5171
136. Photographs of Sgt. Harris' Truck, DRAPER-CHT-5193-5207
137. Trevor Petersen 1099-MISC, DRAPER-CHT-5209

- 138. Trevor Petersen Earnings Summary, DRAPER-CHT-5210
- 139. Private Ops Invoices, DRAPER-CHT-5211-5214
- 140. 9/23/2015 Trevor Petersen Application, DRAPER-CHT-5215-5224
- 141. Trevor Petersen Honesty Pledge, DRAPER-CHT-5225
- 142. Trevor Petersen Independent Contractor Agreement, DRAPER-CHT-5228
- 143. 9/25/15 Process Service Certification Test, DRAPER-CHT-5241-5242
- 144. 4/7/16 Letter from Court OPS to BCI, DRAPER-CHT-5250
- 145. 6/8/11 Hearing Graphs, DRAPER-CHT-5255-5257
- 146. 6/11/2016 Letter from Alan Goldman, DRAPER-CHT-5258-5260
- 147. Photographs of the scene, DRAPER-CHT-5261-5281
- 148. Josh Chatwin Renaissance Ranch Records, DRAPER-CHT-5282-5479
- 149. 7/17/15 Police Report regarding Kirk Torgensen, DRAPER-CHT-5491-5497
- 150. Private Ops invoice, DRAPER-CHT-5498
- 151. Blank Letter of Engagement and Understanding, DRAPER-CHT-5499-5501
- 152. Blank Acknowledgement and Agreement, DRAPER-CHT-5502
- 153. Court Docket regarding Kirk Torgensen, DRAPER-CHT-5516-5518
- 154. Kirk Torgensen Arrest Mugshots, DRAPER-CHT-5519-5520
- 155. Signed Plea Information, Kirk Torgensen, DRAPER-CHT-5521
- 156. Jail Release Agreement, Kirk Torgensen, DRAPER-CHT-5522-5523
- 157. Information, DRAPER-CHT-5524-5527
- 158. Minutes regarding Change of Plea, Plea in Abeyance, DRAPER-CHT-5528

159. News Article involving Kirk Torgensen, DRAPER-CHT-5529-5530
160. News Article involving Kirk Torgensen, DRAPER-CHT-5531-5534
161. News Article involving Kirk Torgensen, DRAPER-CHT-5535-5538
162. News Article involving Kirk Torgensen, DRAPER-CHT-5539-5543
163. Cyber Ops Scene Inspection Photos, DRAPER-CHT-5544-5615
164. United Fire Authority Records, DRAPER-CHT-5620-5625
165. Josh Chatwin Valley Mental Health Records, DRAPER-CHT-5630-5651
166. Josh Chatwin medical records from Dr. Reichert, DRAPER-CHT-5655-5674
167. Josh Chatwin brain scan images, DRAPER-CHT-5675
168. 5/20/2010 Discharge Instructions, Chatwin-002
169. Any exhibits disclosed by Plaintiff.
170. Any documents used as deposition exhibits.

Defendants note that their Motion for Partial Summary Judgment is currently pending before the Court. Therefore, Defendants reserve the right to supplement or amend these disclosures as necessary to conform their trial strategy in light of any future orders from the Court and to meet their disclosure obligations under Rule 26.

#### **OBJECTIONS TO PLAINTIFF'S PRETRIAL DISCLOSURES**

Pursuant to Rule 26(a)(3)(B) of the Federal Rules of Civil Procedure, Defendants object to Plaintiff's Pretrial Disclosures as follows:

#### **Witnesses**

Defendants object to the use of the deposition of Trevor Peterson as proposed in Plaintiff's Pretrial Disclosures. Plaintiff has not designated which portions of the deposition he intends to use if Mr. Peterson is unavailable to offer live testimony. If Plaintiff does not intend to play the entire deposition for the jury, Plaintiff must disclose the specific lines of testimony he intends to use so that Defendant may make counter-designations if necessary.

### **Exhibits**

Defendants may object to the admissibility of the exhibits Plaintiff intends to offer at trial as follows:

1. Medical Records of Joshua Chatwin (Chatwin-003 – 107; 109 – 116; 117 – 133): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains medical records from multiple separate medical providers, which should be separated into individual exhibits for purposes of trial.

2. Preliminary Hearing Transcript (Chatwin-134 – 230): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that the exhibit is what it claims to be.

3. Photographs (Chatwin-231 – 245): Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that each of the photographs is

what it claims to be; this exhibit contains numerous photographs, which should be separated into individual exhibits for purposes of trial.

4. Portions of Draper City Police Department Policies and Procedures (Chatwin-385 – 398): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be.

5. Draper City Police Department Records (DRAPEP-CHT-63 – 88, 90 – 4059): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains multiple separate documents, including one lone page of hearing testimony, which should be separated into individual exhibits for purposes of trial.

6. Photographs of the scene (DRAPEP-CHT-4155 – 4166): Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that each of the photographs is what it claims to be; this exhibit contains numerous photographs, which should be separated into individual exhibits for purposes of trial.

7. Photographs (DRAPEP-CHT-4764 – 4770): Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that each of the photographs is what it claims to be; this exhibit contains numerous photographs, which should be separated into individual exhibits for purposes of trial.

Defendants may object to the admissibility of the exhibits Plaintiff may rely upon at trial as follows:

1. Criminal Information/Discovery, including witness statements (Chatwin-246 – 277; DRAPER-CHT-4060 – 4114): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains multiple separate documents written by different authors, including pleadings and witness statements, which should be separated into individual exhibits for purposes of trial.

2. DPD Training Assessment, January 1, 2015, to December 31, 2016 (DRAPER-CHT-4115 – 4154): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be; this exhibit contains multiple separate documents which should be separated into individual exhibits for purposes of trial.

3. Third District Court Docket, West Jordan Department, State of Utah v. Joshua Scott Chatwin, Case No. 101401517 (DRAPER-CHT-4839 – 4854): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be.

4. Employment records at time of incident (DRAPER-CHT-5117 – 5126): Hearsay, Fed. R. Evid. 802, this exhibit contains out of court statements being offered for the truth of the matter asserted; Authenticity/Foundation, Fed. R. Evid. 901, Plaintiff must produce evidence sufficient to support a finding that this exhibit is what it claims to be.

DATED this 29th day of November, 2016.

**DURHAM JONES & PINEGAR, P.C.**

/s/ R. Blake Hamilton

R. Blake Hamilton  
Ashley M. Gregson  
ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing was served this 29th day of November, 2016, via electronic filing upon the following:

Lisa A. Marcy  
CLYDE SNOW & SESSIONS  
One Utah Center, Thirteenth Floor  
201 South Main Street  
Salt Lake City, UT 84111

John K. Johnson  
JOHN K. JOHNSON, LLC  
10 West 300 South, Suite 800  
Salt Lake City, UT 84101

/s/ Sarah Peck

Secretary